

REMARKS

Claims 1-19 are presented for examination.

The abstract of the disclosure has been objected to as containing more than 150 words. In response, the abstract has been corrected to reduce the number of words.

Claims 1-10 and 14-19 have been rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki (6,330,239). Dependent claims 11-13 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Nagami et al. (5,822,319).

These rejections are respectfully traversed for the following reasons.

It is well settled that the Examiner bears the initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention under any statutory provision. *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Anticipation under 35 U.S.C. § 102 requires the disclosure in a single reference of each element of a claimed invention. *Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). In rejecting a claim under 35 U.S.C. § 102, it is incumbent upon the Examiner to point out specifically wherein an applied reference discloses each feature of the claimed invention. *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984). It is respectfully submitted that the Examiner did not discharge that burden.

In particular, **independent claim 1** recites a method of switching digital information packets between network nodes, including forming a digital information packet comprising at

least one of the following fields in a portion of the digital information packet allocated for Internet Protocol (IP) address fields:

- a Packet Number field for indicating whether the packet is the first packet in a chain of packets, or a generic packet for a specific purpose;
- at least one virtual connection identifier;
- a Quality of Service (QoS) field for identifying parameters of Quality of Service;
- a management field containing a management message; and
- a security field for indicating security parameters for providing security of packet transmission.

The Examiner did not point out wherein Suzuki discloses the claimed fields listed above in a portion of the digital information packet allocated for Internet Protocol (IP) address fields, as claim 1 requires.

Further, **independent claim 9** recites a packet switching system for switching digital information packets, comprising:

- a packet identifying unit for identifying an incoming packet to determine a virtual connection identifier and a type of digital information carried by the incoming packet, the virtual connection identifier is arranged in a portion of the incoming packet allocated for IP address fields; and
- a path selection unit responsive to the virtual connection identifier for selecting a path suitable for the determined type of the digital information.

The Examiner did not point out wherein the reference discloses the claimed virtual connection identifier arranged in a portion of the incoming packet allocated for IP address fields, as claim 9 recites.

Moreover, **independent claim 18** recites a communications system comprising a switching mechanism for switching digital information packets having virtual connection identifiers in portions of the packets allocated for IP addresses, by selecting paths suitable for digital information carried by the packets, based on the virtual connection identifiers.

The Examiner did not point out wherein Suzuki discloses digital information packets having virtual connection identifiers in portions of the packets allocated for IP addresses, as claim 18 requires.

It is respectfully submitted that Suzuki does not disclose the above-indicated features. The reference discloses a hybrid network composed of an ATM network and an IP network. The Examiner relies upon FIGS. 3, 7, and col. 7, lines 5-32 for disclosing the claimed fields.

Considering the reference, Suzuki shows the format of an IP packet in FIG. 3 and the format of the IP header of this packet in FIG. 7.

The reference does not indicate that the fields recited in claim 1, or virtual connection identifier recited in claims 9 and 18 are arranged in a portion of the incoming packet allocated for IP address fields. Instead, as specifically shown in FIG. 7, the IP address fields of the IP header in FIGS. 3 are comprised of source address 37 and destination address 38.

Further, the Examiner takes the position that “by definition a VCI is a 16 bit field in the ATM cell header, that identifies a virtual channel, over which the cell is to travel and therefore is part of the allocated IP address field.”

The Examiner’s position is respectfully traversed.

It is respectfully submitted that the VCI is a field in the header of an ATM cell. However, the VCI in the ATM cell is not arranged in a portion of the packet allocated for IP address fields. As well known to one skilled in the art of data communications, the VCI field in the ATM packet is not allocated for IP address fields.

Moreover, one skilled in the art would realize that an IP packet usually contains a source IP address field and a destination IP address field. Accordingly, these portions of the IP packet are allocated for IP address fields.

Suzuki neither teach nor suggest providing a virtual connection identifier or any other claimed fields in the portion of IP packet (FIG. 3) allocated for IP address fields.

Therefore, Suzuki does not disclose the claimed invention.

In the event the Examiner relied upon inherency without expressly indicating such reliance, the Examiner should be aware that inherency requires certainty, not speculation. *In re Rijckaert*, 9 F.3rd 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986); *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983); *In re Oelrich*, 666 F.2d 578, 212 USPQ 323 (CCPA 1981); *In re Wilding*, 535 F.2d 631, 190 USPQ 59 (CCPA 1976). To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference,

and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probability or possibilities. *In re Robertson*, 169 F.3d 743, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

The Examiner provided no factual basis upon which to conclude that the portions of Suzuki's IP packet allocated for IP address fields contain a virtual connection identifier or any other field recited in claim 1. Moreover, as discussed above, one skilled in the art would have no reason to make this conclusion because Suzuki specifically indicates that the source address 37 and the destination address 38 are provided in the portion of the packet allocated for IP address fields.

Accordingly, it cannot be said that Suzuki describes the claimed invention within the meaning of 35 U.S.C. § 102. *Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc., supra.*

The Examiner has apparently failed to give adequate consideration to the particular problems and solution addressed by the claimed invention. *Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 15 USPQ2d 1321 (Fed. Cir. 1990); *In re Rothermel*, 276 F.2d 393, 125 USPQ 328 (CCPA 1960).

Specifically, as disclosed in the specification, in order to address disadvantages of regular data communications networks, the present invention suggests replacing regular IP header address fields of an IP packet with a bit arrangement unique for Virtual IP Switching (VIPS).

As demonstrated above, the Examiner's conclusion of anticipation with respect to independent claims 1, 9 and 18 is unwarranted. Dependent claims 2-8, 10-17 and 19 are defined

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over the prior art at least for the reasons presented above, in connection with the respective independent claims.

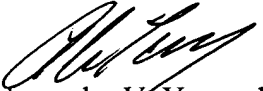
Applicant, therefore, respectfully submits that the rejection of claims 1-10 and 14-19 under 35 U.S.C. 102(e) as being anticipated by Suzuki, and the rejection of dependent claims 11-13 under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Nagami et al. are untenable and should be withdrawn.

In view of the foregoing, and in summary, claims 1-19 are considered to be in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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